TESTIMONY OF SCOTT MILLER
Interim Legislative Retirement Committee

Good Morning, my name is Scott Miller. I am the Executive Director of the North Dakota Public Employees Retirement System, or NDPERS. I am before you today to address the proposed scope of work to be included in the Request for Proposals (RFP) to obtain actuarial consulting services for the Interim Legislative Retirement Committee. I truly appreciate the opportunity to provide my thoughts on the scope of work. This actuarial analysis is incredibly important for this Committee and the full Legislative Assembly to understand the full and true cost of any proposal to close the Defined Benefit (DB) plan. As such, I hope you find my comments constructive and helpful as you attempt to determine that cost.

Initially I would note the absence of requirements that I believe would be beneficial for this study. The first is that the scope does not request that the consulting actuary perform a replication of the most recent actuarial valuation. A replication will ensure that the consulting actuary agrees with the methodologies and assumptions used by NDPERS' actuary and comes up with reasonably similar results. If the consulting actuary's replication shows a gross deviation, then we can work out where the error lies – with the consulting actuary or NDPERS' actuary – before the consulting actuary moves on to providing analyses of the Committee's proposals. Without a replication, the Committee will lose some of the assurance it should have in the consulting actuary's work.

Notably, when the Legislature's consulting actuary, Gallagher, provided its report regarding the 2014 study to close the DB plan, it noted the importance of doing the replication before going on to provide its analysis. Had it not done that analysis, it would have been much more difficult for them to identify why there was such a broad dispersion between its analysis and the analysis of the NDPERS actuary. But because they had done that replication valuation, they were able to quickly pinpoint why the results were so different.

The second requirement that I would recommend is to specify that in its analyses of proposals to close the DB plan, the consulting actuary is required to evaluate the de-risking of the plan's investment portfolio over time. I am at a loss as to why neither the NDPERS actuary nor Gallagher took that into account for the 2014 study. However, that is a clear requirement for the plan going forward – if the DB plan is closed, we will no longer be able to afford to take the same level of risk in our investment portfolio, and will have to modify the portfolio to reduce risk and, along with it, our assumed rate of return. That will significantly increase the liabilities going forward, and, therefore, the cost of closing the DB plan. Ignoring that requirement will result in a grossly understated cost to close the plan.

Third, there is no request that the consulting actuary provide information regarding the possibility of raising contribution rates to help pay the cost of closing the DB plan – it only asks for lump sum contributions “to enable the plan to be 100 percent funded in 20 years”. As I mentioned in my initial testimony in front of this committee, there are three ways to pay for the proposed closure – a lump sum, increased employer contributions, and increased employee contributions. Since only 48% of the state’s contribution comes from the general fund, and 52% comes from special and federal funds (44% and 8%, respectively), a lump sum contribution is a somewhat less efficient way for the state to pay for a closure.

Fourth, there is no request that the consulting actuary analyze the cost of allowing current DB plan members to transfer to the DC plan. Both of the DB plan closure bills introduced in the past two legislative sessions have provided an opportunity for current DB plan members to transfer to the DC plan. Of course, depending on how that transfer is accomplished, it would most likely increase the cost of closing the plan. Nonetheless, this has been a proposed option in the past.

Finally, if the Committee wishes to examine alternate retirement possibilities (for example, a cash balance plan), requiring the consulting actuary to assist with those evaluations would be helpful. They should have the resources and experience to model any number of possibilities.

We have also identified some concerns with the scope that is provided in the draft. The first concern relates to the requirements that the consulting actuary provide estimates of the state’s share of the unfunded liability and each participating political subdivisions’ share of the unfunded liability. Correspondingly, there are also concerns regarding the provision of estimated lump sum contributions for both the state and political subdivisions.

The reason for the concern is simple – we do not know how much of the approximately $3.6 billion in assets we have is attributable to any given employer. The DB plan has been in existence for around 50 years. Over the course of that time, we have received just over $3 billion in contributions. While we do reconcile all contributions to our plan as they are received, we have never attempted to keep track of accumulated contributions, investment income, and benefit payments for each of our participating employers.

While the consulting actuary should be able to give you an estimate of each political subdivisions’ liability, determining the *unfunded* liability requires the actuary to know how much in assets is attributable to each political subdivision. That is not something we can determine. Thus, the consulting actuary will only be able to provide a rough estimate of the amounts you seek. Further, in order for the consulting actuary to provide that estimate, I anticipate the Committee will need to make decisions on a number of assumptions that the actuary would then use to provide that estimate. Those assumptions may include: how assets are allocated; will assets take into account estimated benefit payments, contributions, and earnings; how service at multiple participating employers should be handled.

Additionally, sections 2(a), 2(c), 2(f) and 2(g) may be out of scope for an actuary. In my experience, the issues present in 2(a) and 2(c) seem to be more appropriate for a federal tax law attorney (specifically one who specializes in public pension law) rather than an actuary. Depending on the actuary, they may have access to a law firm that may be able to help them. But I do not know that an actuary will be able to assist with these requests.

Assuming section 2(f) involves NDPERS administrative expenses to implement any plan changes, I do not know that an actuary would be able to estimate what our expenses might be without coming in-house and seeing how our data is stored, including our massive amount of microfiche. Further, section 2(g) involves bond rating agency evaluations, which is not typically something into which an actuary would attempt to venture.

Finally, I’m not clear what sections 2(d) and 2(e) are intended to mean. I would need clarification of those requirements before I could provide any additional comment on those requests.